

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**FABIAN SANTIAGO,**

Plaintiff,

V.

**SGT. CHILDERS, et al.,**

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)

Civil No. **05-512-MJR-CJP**

**ORDER**

**PROUD, Magistrate Judge:**

Before the Court is plaintiff Santiago's "Motion Requesting an Order of Contempt, & the Levy of Penalties, Cost, & Sanctions" [sic]. **(Doc. 132)**. The focus of the profanity-laced screed is the defendants' assertion that the July 2003 log books and work assignment sheets requested by plaintiff do not exist. In response to the subject motion the defendants assert that they are not lying or otherwise withholding the requested materials. **(Doc. 136)**.

Plaintiff offers mere assertions of discovery fraud, *unsupported by any evidence*. At this time, the Court has nothing more than the parties' contradictory assertions, which is an insufficient basis upon which to impose sanctions. Unlike plaintiff, the Court does not find it wholly improbable or unreasonable that the requested documents no longer exist. Therefore, plaintiff's motion must be denied. Of course, if at some later time evidence is before the Court establishing that there has been some form of discovery fraud, the Court will certainly take action.

**IT IS THEREFORE ORDERED** that the subject motion for sanction **(Doc. 132)** is **DENIED** in all respects.

**DATED: October 28, 2008**

**s/ Clifford J. Proud**  
**CLIFFORD J. PROUD**  
**U. S. MAGISTRATE JUDGE**